

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 234

BY SENATOR ROMANO

[Introduced January 9, 2020; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §15-10-5 of the Code of West Virginia, 1931, as amended, relating
 2 to acknowledging the transfer of the Federal Protection Service from the U.S. General
 3 Services Administration to the U.S. Department of Homeland Security by the enactment
 4 of the Homeland Security Act of 2002.

Be it enacted by the Legislature of West Virginia:

ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.

§15-10-5. Federal officers' peace-keeping authority.

1 (a) Notwithstanding any provision of this code to the contrary, any person who is employed
 2 by the United States government as a federal law-enforcement officer and is listed in subsection
 3 (b) of this section, has the same authority to enforce the laws of this state, except state or local
 4 traffic laws or parking ordinances, as that authority granted to state or local law-enforcement
 5 officers, if one or more of the following circumstances exist:

6 (1) The federal law-enforcement officer is requested to provide temporary assistance by
 7 the head of a state or local law-enforcement agency or the designee of the head of the agency
 8 and that request is within the state or local law-enforcement agency's scope of authority and
 9 jurisdiction and is in writing: *Provided*, That the request does not need to be in writing if an
 10 emergency situation exists involving the imminent risk of loss of life or serious bodily injury;

11 (2) The federal law-enforcement officer is requested by a state or local law-enforcement
 12 officer to provide the officer temporary assistance when the state or local law-enforcement officer
 13 is acting within the scope of the officer's authority and jurisdiction and where exigent
 14 circumstances exist; or

15 (3) A felony is committed in the federal law-enforcement officer's presence or under
 16 circumstances indicating a felony has just occurred.

17 (b) This section applies to the following persons who are employed as full-time federal
 18 law-enforcement officers by the United States government and who are authorized to carry
 19 firearms while performing their duties:

- 20 (1) Federal Bureau of Investigation special agents;
- 21 (2) Drug Enforcement Administration special agents;
- 22 (3) United States Marshal's Service marshals, and deputy marshals;
- 23 (4) United States postal service inspectors;
- 24 (5) Internal revenue service special agents;
- 25 (6) United States secret service special agents;
- 26 (7) Bureau of alcohol, tobacco, and firearms special agents;
- 27 (8) ~~Police officers~~ Department of Homeland Security Federal Protective Service inspectors
- 28 employed pursuant to 40 U.S.C. ~~§§318 and 490~~ 1315 at the Federal Bureau of Investigation's
- 29 criminal justice information services division facility located within this state;
- 30 (9) Law enforcement commissioned rangers of the national park service;
- 31 (10) Department of Veterans Affairs Police and Department of Veterans Affairs special
- 32 investigators;
- 33 (11) Office of Inspector General special agents; and
- 34 (12) Federal Air Marshals with the Federal Air Marshal Service.
- 35 (c) Any person acting under the authority granted pursuant to this section:
- 36 (1) Has the same authority and is subject to the same exemptions and exceptions to this
- 37 code as a state or local law-enforcement officer;
- 38 (2) Is not an officer, employee, or agent of any state or local law-enforcement agency;
- 39 (3) May not initiate or conduct an independent investigation into an alleged violation of any
- 40 provision of this code except to the extent necessary to preserve evidence or testimony at risk of
- 41 loss immediately following an occurrence described in subdivision (3), subsection (a) of this
- 42 section;
- 43 (4) Is subject to 28 U.S.C. §1346, the Federal Tort Claims Act; and
- 44 (5) Has the same immunities from liability as a state or local law-enforcement officer.

NOTE: The purpose of this bill is to amend current law to acknowledge the transfer of the Federal Protection Service from the U.S. General Services Administration to the U.S. Department of Homeland Security by the enactment of the Homeland Security Act of 2002.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.